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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,432	06/30/2003	Robert Bellman	064951-0204	7159
22428	7590	04/20/2005	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			HYEON, HAE M	
			ART UNIT	PAPER NUMBER
			2839	

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/608,432

Applicant(s)

BELLMAN ET AL.

Examiner

Hae M. Hyeon

Art Unit

2839

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 and 30-34 is/are pending in the application.
- 4a) Of the above claim(s) 1-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-28 and 30-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings were received on March 8, 2005. These drawings are approved.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 19-28 and 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bloechl et al (6,678,452 B1) in view of Beyeler et al (WO 01/64594 A1) and Lemaire et al (EP-0673895 A2).

Bloechl discloses an optical device comprising a silicon oxynitride substrate 1, an optical layer 4, a cladding layer 5, and a silicon oxynitride buffer layer 8 in between the substrate 1 and the optical layer 4. However, Bloechl does not disclose the optical layer comprising deuterated silicon oxynitride.

Beyeler discloses an optical device comprising a silicon oxynitride substrate, which can be made using a low-temperature manufacturing process (see page 8, lines 34-35 and page 9, lines 1-18) that provides a wider processing temperature window and low mechanical stress in the oxidic layer stack.

Art Unit: 2839

Lemaire discloses an optical device comprising a germanium doped optical layer being treated with deuterium to reduce hydrogen-induced loss increases to no more than 0.002dB/km at 1.55 micrometers over a period of 25 years.

Regarding the limitations recited in claims 20-23, 25-26, and 33, they only deal with the use of preferred material. Also, regarding the limitations recited in claims 27-32, the optical device of Lemaire has the values of propagation losses and an index of refraction that fall within the ranges recited in claims 27-32.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the optical device taught by Bloechl such that it would have a deuterated silicon oxynitride inorganic optical layer made using a low-temperature manufacturing process as taught by Beyeler and the optical layer treated with deuterium as taught by Lemaire because the low-temperature process would provide a wider processing temperature window and low mechanical stress in the oxidic layer stack and the optical device treated with deuterium could reduce hydrogen-induced loss increases to no more than 0.002dB/km.

Response to Arguments

4. Applicant's arguments with respect to claims 19-34 filed on March 8, 2005 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 2839

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hae M. Hyeon whose telephone number is 571-272-2093. The examiner can normally be reached on Mon.-Fri. (8:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tulsidas C. Patel can be reached on (571) 272-2098. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hae M Hyeon
Primary Examiner
Art Unit 2839

hnh *hnh*

Hae Moon Hyeon